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8
9 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 SHERYL K. CANNON
536 South 2nd Avenue #E
13 Covina CA 91723

14 P.O. Box 4429
Covina, CA 91723

15 Certified Public Accountant No. CPA 63805

16 Respondent.
17

Case No. AC-2007-19

OAH No. L-2007050971

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

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19 **FINDINGS OF FACT**

20 1. On or about April 20, 2007, Complainant Carol Sigmann, in her official
21 capacity as the Executive Officer of the California Board of Accountancy, filed Accusation
22 No. AC-2007-19 against Sheryl K. Cannon (Respondent) before the California Board of
23 Accountancy (Board).

24 2. On or about February 12, 1993, the Board issued CPA No. 63805 to
25 Respondent. The license expired on July 1, 2007, and is currently in a delinquent status.

26 3. On or about May 3, 2007, Henrietta Gaviola, an employee of the
27 Department of Justice, served by Certified and First Class Mail a copy of the Accusation
28 No. AC-2007-19, Statement to Respondent, Notice of Defense, Request for Discovery, and

1 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
2 with the Board, which was and is 536 South 2nd Avenue #E, Covina, California 91723.

3 A copy of the Accusation, the related documents, and Declaration of Service are attached as
4 exhibit 1, and are incorporated herein by reference.

5 4. Service of the Accusation was effective as a matter of law under the
6 provisions of Government Code section 11505, subdivision (c).

7 5. Government Code section 11506 states, in pertinent part:

8 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
9 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
10 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
11 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

12 6. Respondent filed a Notice of Defense on May 14, 2007, but subsequently
13 filed a signed Withdrawal of Notice of Defense on August 20, 2007. (Ex. 2). In filing her
14 Withdrawal of Notice of Defense, Respondent knowingly waived her right to a hearing on the
15 merits of Accusation No. AC-2007-19.

16 7. California Government Code section 11520 states, in pertinent part:

17 "(a) If the respondent either fails to file a notice of defense or to appear at the
18 hearing, the agency may take action based upon the respondent's express
19 admissions or upon other evidence and affidavits may be used as evidence
20 without any notice to respondent."

21 8. Pursuant to its authority under Government Code section 11520, the Board
22 finds Respondent is in default. The Board will take action without further hearing and, based on
23 Respondent's express admissions by way of default and the evidence before it, contained in
24 exhibits 1, 2, and 3, finds that the allegations in Accusation No. AC-2007-19 are true.

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1 9. The total costs for investigation and enforcement are \$10,679.50 as of
2 August 14, 2007. This total represents \$3,413.50 in investigative costs incurred by the Board,
3 and \$7,266.00 in costs incurred by the Attorney General's Office. (Ex. 3, Certification of Costs
4 of Investigation and Prosecution and Declaration of Brian G. Walsh.)

5 **DETERMINATION OF ISSUES**

6 1. Based on the foregoing findings of fact, Respondent Sheryl K. Cannon has
7 subjected her CPA No. 63805 to discipline.

8 2. A copy of the Accusation and the related documents and Declaration of
9 Service are attached.

10 3. The Board has jurisdiction to adjudicate this case by default.

11 4. The Board is authorized to revoke Respondent's CPA License based upon
12 the following violations alleged in the Accusation:

13 (a) First Cause for Discipline (Dishonesty, Fraud, or Gross
14 Negligence): Respondent orally and in writing agreed to provide tax return preparation
15 services for client Scott H. for the tax year 2005. Respondent failed to prepare the tax
16 returns and failed to engage in complete and truthful disclosures regarding her inability to
17 provide these services, in violation of Business and Professions Code (Code) section
18 5100, subsection (c).

19 (b) Second Cause for Discipline (Fiscal Dishonesty or Breach of
20 Fiduciary Duty): Respondent failed to act in the client's best interests and failed to act
21 with due diligence, as detailed above in paragraph 4(a), in violation of Code section 5100,
22 subsection (i).

23 (c) Third Cause for Discipline (Failure to Respond to the Board):
24 Respondent repeatedly failed to respond to the Board's inquiries related to the allegations
25 in the complaint of Scott H., in violation of Code section 5100, subsection (g), and
26 California Code of Regulations, title 16, section 52, subsection (a) .

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1 (d) Fourth Cause for Discipline (Failure to Notify Board of a Change
2 of Address): Respondent failed to notify the Board of a change of address, in violation of
3 Code section 5100, subsection (g), and California Code of Regulations, title 16, section 3.

4 **ORDER**

5 IT IS SO ORDERED that CPA No. 63805, heretofore issued to Respondent
6 Sheryl K. Cannon, is revoked.

7 Pursuant to Government Code section 11520, subdivision (c), Respondent may
8 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
9 within seven (7) days after service of the Decision on Respondent. The Board in its discretion
10 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
11 statute.

12 This Decision shall become effective on November 4, 2007.

13 It is so ORDERED.

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15 FOR THE CALIFORNIA BOARD OF ACCOUNTANCY

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19 DOJ docket number: LA2006601931

20 Attachments:

21 Exhibit 1: Accusation No. AC-2007-19, Related Documents, and Declaration of Service
22 Exhibit 2: Respondent's Withdrawal of Notice of Defense
23 Exhibit 3: Certification of Costs: Declaration of Brian G. Walsh and Certification of Costs
24 by the California Board of Accountancy
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Exhibit 1

Accusation No. AC-2007-19,
Related Documents and Declaration of Service

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
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11 In the Matter of the Accusation Against:

Case No. AC-2007-19

12 SHERYL K. CANNON
536 South 2nd Avenue #E
13 Covina, CA 91723

A C C U S A T I O N

14 Certified Public Accountant No. CPA 63805

15 Respondent.

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17 Complainant alleges:

18 PARTIES

19 1. Carol Sigmann (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the California Board of Accountancy (Board), Department of
21 Consumer Affairs.

22 2. On or about February 12, 1993, the Board issued Certified Public
23 Accountant License No. CPA 63805 to Sheryl K. Cannon (Respondent). The Certified Public
24 Accountant License was in full force and effect at all times relevant to the charges brought herein
25 and will expire on June 30, 2007, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 5100 states:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

....

"(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

....

"(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

....

"(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind."

5. California Code of Regulations, title 16, section 3 states:

"(a) Address Notification -Individual Licensees

"(1) Each licensee shall notify the Board of any change in his or her address of record within 30 days after the change. The address of record is public information. If the address of record is a post office box or mail drop, the change of address notification shall include the street address of either the licensee's primary place of employment or his or her residence.

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1 “(2) For purposes of this section, "licensee" includes any holder of an active,
2 inactive, suspended, or expired certified public accountant license or public accountant license
3 issued by the Board which is not canceled or revoked.

4 “(3) All notification required under this subsection shall be in writing and shall be
5 signed by the licensee.”

6 6. California Code of Regulations, title 16, section 52, subdivision (a) states:

7 “A licensee shall respond to any inquiry by the Board or its appointed
8 representatives within 30 days. The response shall include making available all files, working
9 papers and other documents requested.”

10 7. Section 5107(a) of the Code states:

11 "The executive officer of the board may request the administrative law judge, as
12 part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or
13 certificate found to have committed a violation or violations of this chapter to pay to the board all
14 reasonable costs of investigation and prosecution of the case, including, but not limited to,
15 attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

16 PROFESSIONAL STANDARDS AND REGULATIONS

17 8. Section 10.22 of United States Treasury Circular 230 provides that a tax
18 practitioner must exercise due diligence in the preparation and filing of tax returns and in
19 determining the correctness of oral and written representations made by the practitioner to clients
20 with reference to any matter administered by the Internal Revenue Service.

21 FIRST CAUSE FOR DISCIPLINE

22 (Dishonesty, Fraud, or Gross Negligence)

23 9. Respondent is subject to disciplinary action under section 5100,
24 subdivision (c), on the grounds of unprofessional conduct, in that Respondent committed acts of
25 dishonesty, fraud, gross negligence or repeated negligent acts in the practice of public
26 accountancy as follows:

27 A. Respondent orally and in writing agreed to provide tax return preparation
28 services to client Scott H. for the tax year 2005. On or before February 26, 2006, Scott H.

1 provided Respondent with copies of all relevant documentation necessary to prepare federal and
2 state personal income tax returns for Scott H. for the 2005 tax year, for timely filing on or before
3 April 17, 2006. Scott H. contacted or attempted to contact Respondent numerous times between
4 February 26, 2006 and April 17, 2006 to inquire on the status of his returns. On or about April 6,
5 2006 Respondent advised Scott H. by e-mail that she was having his returns delivered that day by
6 courier. On or about April 12, 2006 Respondent advised Scott H. by e-mail that his tax return
7 was done and that she would mail it to him and either e-file the return or file an extension.

8 Respondent never provided Scott H. with his 2005 returns. Respondent did not file any extension
9 of the tax return filing date for Scott H. for the 2005 tax year. On or about May 29, 2006 Scott
10 H. had his 2005 tax year returns completed by another Certified Public Accountant.

11 B. On or about May 2, 2006 Scott H. filed a complaint with the Board
12 regarding Respondent's failure to prepare or file extensions for his tax returns for the 2005 tax
13 year, as set forth above. On or about May 4, 2006, June 23, 2006 and July 19, 2006 the Board
14 sent letters to Respondent requesting a response to the complaint of Scott H. The Board's letters
15 of June 23, 2006 and July 19, 2006 were by certified mail including a notice to Respondent that
16 she was required to respond to the Board's inquiry under California Code of Regulations, title 16,
17 section 52 and that failure to respond within 30 days constituted a violation of Section 5100(g).
18 The Board has received certified mail domestic return receipt cards recording personal receipt by
19 respondent of the Board's certified mail letter of June 23, 2006 and July 19, 2006. On or about
20 June 6, 2006 the Board received a phone message from Respondent confirming receipt of the
21 Board letters of May 6, 2006 regarding the complaint of Scott H. and stating that Respondent
22 would be responding to the Board's letter and the complaint the following day. On or about
23 July 11, 2006 Respondent, in a phone conversation with a Board investigator, informed the
24 Board that she had responded to the Boards letters to that date by letter of July 3, 2006.
25 Respondent was informed that the Board had not received such a letter and Respondent agreed to
26 fax the Board's investigator a copy of the letter no later than the next day. The Board has not
27 received any written response, including but not limited to letter, fax or email response, from
28 Respondent to its letters or the complaint of Scott H.

1 C. On or about June 6, 2006 the Board received a phone message from
2 Respondent stating that she had closed her office and moved her practice into her home.
3 Respondent's voice mail message provided a new address which was not Respondent's address
4 of record with the Board. The Board's certified mail letter of June 23, 2006 and July 19, 2006
5 additionally advised Respondent that California Code of Regulation, title 16, Section 3, requires
6 licensees to notify the Board in writing of any change of address within 30 days of the change.

7 SECOND CAUSE FOR DISCIPLINE

8 (Fiscal Dishonesty and Breach of Fiduciary Duty)

9 10. Respondent is subject to disciplinary action under section 5100,
10 subdivision (i), on the grounds of unprofessional conduct, in that Respondent committed acts of
11 fiscal dishonesty and breached a fiduciary duty as set forth in paragraph 9.

12 THIRD CAUSE FOR DISCIPLINE

13 (Failure to Respond to the Board)

14 11. Respondent is subject to disciplinary action under section 5100,
15 subdivision (g), on the grounds of unprofessional conduct, for violating California Code of
16 Regulations, title 16, section 52, subdivision (a), in that Respondent failed to respond to the
17 Board's inquiry as set forth in paragraph 9.

18 FOURTH CAUSE FOR DISCIPLINE

19 (Failure to Notify the Board of a Change of Address)

20 12. Respondent is subject to disciplinary action under section 5100,
21 subdivision (g), on the grounds of unprofessional conduct, for violating California Code of
22 Regulations, title 16, section 3, in that Respondent failed to notify the Board of a change of
23 address within 30 days as set forth in paragraph 9.

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1 PRAYER

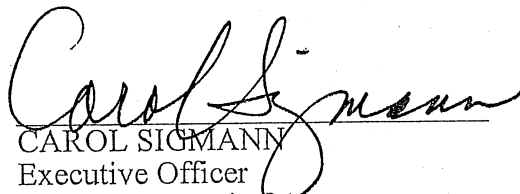
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board issue a decision:

4 A. Revoking or suspending or otherwise imposing discipline upon Certified
5 Public Accountant License No. CPA 63805, issued to Sheryl K. Cannon;

6 B. Ordering Sheryl K. Cannon to pay the Board the reasonable costs of the
7 investigation and enforcement of this case, pursuant to Business and Professions Code section
8 5107;

9 C. Taking such other and further action as deemed necessary and proper.

10 DATED: April 20, 2007

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12 
13 CAROL SIGMANN
14 Executive Officer
15 California Board of Accountancy
16 State of California
17 Complainant

18 LA2006601931

19 60202087.wpd
20 jz(12/18/06)
21 1/26/07-rev. jz,
22 Rev. MRG 031907
23 Rev. JW 04/13/07
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